

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on February 14, 2001 at 10:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Fred Thomas (R)
Sen. Ken Toole (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 443, 2/7/2001
Executive Action: SB 306, SB 429, SB 370, HB 80

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EXECUTIVE ACTION ON SB 306

Motion/Vote: SEN. TOOLE moved that SB 306 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON SB 429

Motion: SEN. FRANKLIN moved that SB 429 DO PASS.

Discussion:

SEN. EVE FRANKLIN said there were two decisions included: (1) the referrendum process and (2) another process of which she was unclear.

Motion: SEN. FRANKLIN moved that SB 429 BE AMENDED by STRIKING SECTION 3.

Discussion:

SEN. DON HARGROVE asked David Niss, legislative services, if it would still be legal if Section 3 were removed. David Niss replied that the only way that the bill would not be legal if it were left to apply retroactively, or if the city had some kind of a constitutional invested right in the language of the ordinance as it had already been adopted. Mr. Niss believed that they would not.

SEN. JOHN BOHLINGER told the committee that providing an extension of the 30 day period for gathering signatures qualifying a petition was important. He added this bill provided a useful purpose and, therefore, supported this bill. SEN. BOHLINGER said in respect to SEN. FRANKLIN'S motion concerning the amendment, the removal of Section 3 would be a mistake. If the situation would go to litigation with Billings, a considerable amount of money would be spent.

SEN. HARGROVE said he felt this bill was what the citizens truly did want.

SEN. ELLIOTT asked Robert Throssell, Montana Clerk and Records, why it took three weeks to verify the petition. Mr. Throssell replied it was because they were working on another project, so they did not have enough time to finish it sooner.

SEN. ELLIOTT asked Robert Throssell how long it usually took to verify petitions. Robert Throssell responded that it varied. The election administrator would look at the format first, then a statement on the petition would be reviewed by the city attorney, with 21 days usually being very adequate, he said.

Vote: Motion that SB 429 BE AMENDED failed 2-6.

Vote: Motion that SB 429 DO PASS carried 7-1 with Toole voting no.

HEARING ON SB 443

Sponsor: SEN. ED BUTCHER, SD 47, Winifred

Proponents: Patricia Marchington, State Genealogy Society
Susan Austad, Lewis and Clark Genealogy Society
Betty Babcock, State Genealogy Society
Anita Feltis, Bozeman Family History Center
Marilyn Lewis, State Genealogy Society

Opponents: Harold Blattie, Stillwater County Commissioner
Robert Throssell, Montana Clerk of Records and
Montana Association of Court Treasurers
Mary Phippen, Montana Clerk of District Court

Opening Statement by Sponsor:

SEN. ED BUTCHER, SD 47, Winifred, **EXHIBIT**(sts37a01) told the committee that Montana was losing pieces of history.

Proponents' Testimony:

Patricia Marchington, State Genealogy Society, stated concern about records in Montana. He said the disposal of past records needed to be stopped.

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Susan Austedt, Lewis and Clark Genealogy Society, said the records were public records. If confidentiality was not a concern with the record and if some public person was willing to save them, she urged the committee to allow that person to store the records to ensure the records would remain available.

Betty Babcock, State Genealogy Society, said she wanted to preserve the records because we cannot live in the past, but we can learn from the past.

Anita Feltis, Bozeman Family History Center of the Church of Latter Day Saints, stated it was upsetting to think of records being thrown away. She added that she would like to see the records put on microfilm.

Marilyn Lewis, State Genealogy Society, told the committee that preserving records was important. She recommended that even if the records were microfilmed, the records should be stored in more than one place in case of fire.

Opponents' Testimony:

Harold Blattie, Stillwater County Commissioner, stated he had concerns as well as questions about this bill. **Harold Blattie** said Stillwater County was in the process of microfilming records and had found that it takes a lot of money and time. The questions and concerns **Harold Blattie** had were: (1) who would notices be directed to notifying the public that the records would be destroyed and also allowing the public an opportunity to take possession of the records, (2) where would the documents be sent to, (3) if notices had to be published in the papers, that would raise the notification costs, and (4) the extra burden on staff. **Harold Blattie** told the committee that his greatest concern was that this bill could open the door to additional litigation.

Robert Throssell, Montana Clerk and Recorders and Montana Association of County Treasurers, stated that keeping those records would present a big problem, whereas the volume was excessive and they were running out of space. He added there would be recording fees incurred. Once the records are microfilmed, several copies were made and stored in different locations in case of fire.

Mary Phippen, Montana Clerk of District Court, stated concerns about fiscal costs to the local governments and the added administrative duties involved. She added that she was not opposed to the intent of the bill, however. **Mary Phippen** said currently a record of records destruction schedule was already published for local government officials with provisions in that schedule for permanent records. She added that marriage and dissolutions were already considered permanent and, therefore, were kept permanently. **Mary Phippen** urged the committee to look at the definitions of public record and public writings.

Informational Testimony:

Arnold Olsen, Montana Historical Society, EXHIBIT (sts37a02) provided the committee with background on the issues.

Lynn Keller, State Records Manager for the Secretary of State, told the committee there were already laws relating to government records. She stated they were already seriously short of adequate storage facilities. **Lynn Keller** said the fiscal note

for this bill was a concern. She added that she was unclear about how this bill would work together with other laws already in statute.

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Questions from Committee Members and Responses:

SEN. BOHLINGER told **SEN. BUTCHER** he supported his intent in this bill and realized the importance of keeping the records.

SEN. ELLIOTT asked **Kathryn Otto, State Archivist**, what statutes relating to confidentiality exist in reference to records such as adoption papers. **Kathryn Otto** replied that there were several laws dealing with confidentiality concerning adoption records, marriage applications, and patient files to name some of them.

SEN. ELLIOTT told **David Niss** that in reading this bill, he saw no reference to confidential records which would mean it would be left open to any records in the state of Montana. **David Niss** responded that there may be individual statutes dealing with individual records on a case by case basis that would play into this bill, such as the marriage application statute.

SEN. ELLIOTT told **SEN. BUTCHER** that other than the concerns about cost and space, he was also concerned about confidentiality and the untimely release of those records. **SEN. ELLIOTT** asked **SEN. BUTCHER** if he would be opposed to an amendment addressing the concern about confidentiality. **SEN. BUTCHER** responded that he would not be opposed to an amendment addressing the confidentiality issue. **SEN. BUTCHER** added that this bill would not supercede any statutes addressed in law concerning records. **SEN. BUTCHER** said this bill addressed only the issue of after the records are ready to be disposed of and follow the statutes already in place.

Susan Austad told the committee that this bill did not state how the public was to be notified. She added that there were many ways to notify the public including newspapers, bulletin boards, and the internet for example.

SEN. HARGROVE asked **SEN. BUTCHER** if there was a fiscal note for this bill. **SEN. BUTCHER** said there was not a fiscal note because there was no reason for an expense.

SEN. HARGROVE asked **SEN. BUTCHER** if the bill needed to be more specific in Section 2 and are the people involved being required to store the information for a longer period of time. **SEN.**

BUTCHER answered they are not required to store the records any longer because the bill states that the notices needed to be sent 180 days prior to disposal. **SEN. BUTCHER** said this bill fits in with current statutes.

SEN. HARGROVE asked **Robert Throssell** about Section 2 possibly stating that the Montana Historical Society, the state archives, and the Montana public and private universities. **Robert Throssell** responded that he had those same concerns about the notice process.

SEN. HARGROVE asked **Robert Throssell** if he could envision how this bill could be revised to assist the records disposal personnel in knowing what to do and without being an undue burden on them. **Robert Throssell** responded that the new Section 1, Subsection 3C, gave the state records committee authority to set the standards and Section 2C for the local government records committee to establish the procedure. If everything could be channeled through the committee, it would take a load off the local government people, but would affix that responsibility to the state.

SEN. HARGROVE asked **Robert Throssell** if he saw any conflict with Section 2.1. **Robert Throssell** answered that as long as the responsibility was taken on by the local records committee, that would meet many of the concern by the local elected officers.

SEN. HARGROVE asked **Susan Austad** if the local records committee could establish a procedure. She replied that, yes, that was how she envisioned this as working.

SEN. TOOLE asked **Jane Jalenski** if counties had web pages. She responded that some counties do and that this was something they were working on.

SEN. HARGROVE asked **SEN. BUTCHER** if it could be left up to the local committee to develop a plan. **SEN. BUTCHER** said this bill puts in a framework for the local committees to set up guidelines.

SEN. HARGROVE asked **Commissioner Harold Blattie**, if it would be workable for the local committees to set up procedures. **Harold Blattie** answered that there may need to be a specific exemption stating time guidelines for advertising.

Closing by Sponsor:

SEN. ED BUTCHER, SD 47, closed SB 443 by telling the committee that it was not the intent of this bill to have a fiscal note and

that the interest for this legislation was extensive. He added that the intent of this bill was to preserve heritage.

EXECUTIVE ACTION ON SB 370

Motion: SEN. BOHLINGER moved that SB 370 DO PASS.

Discussion:

SEN. BUTCHER explained amendment SB037001.adn **EXHIBIT(sts37a03)**.

SEN. BUTCHER said this amendment raised the five years to eight years of service.

SEN. FRANKLIN stated she would like the amendment changed from eight years to five years.

SEN. TOOLE said he thought the five years pertained more to people who were appointed rather than judges who were defeated.

SEN. HARGROVE said another aspect would be the Chief Justice would be trusted to appoint someone who was competent.

SEN. HARGROVE asked **David Niss, legislative services**, if the length of time was changed back to five years instead of the eight years stated in the amendment, would there be any reason to have the amendment. **David Niss** answered if it were moved back to five years, it would conflict with current statute which was eight years.

SEN. TOOLE asked if this was needed if it was already in statute somewhere else. SEN. BUTCHER replied that, yes, it was needed because they were allowed to retire at age 60 and SEN. BUTCHER wanted the judges to at least be available for service if they were going to be allowed to retire early.

Motion/Vote: SEN. BUTCHER moved that **AMENDMENT SB037001.ADN BE ADOPTED**. Motion carried unanimously.

Motion/Vote: SEN. TOOLE moved that **SB 370 DO PASS AS AMENDED**. Motion carried unanimously.

EXECUTIVE ACTION ON HB 80

Motion: SEN. FRANKLIN moved that **HB 80 BE ADOPTED**.

Discussion:

SEN. TOOLE presented the committee with information about the Montana Human Rights Network's position on HB 80. **EXHIBIT (sts37a04)**

SEN. TOOLE told the committee he opposed this bill because it allows opportunity for voter registration cards to be thrown out more easily.

SEN. BOHLINGER stated he favored what **REP. SMITH** was trying to accomplish with this bill. He added that by establishing clear addresses, people would know what precinct they were in. **SEN. BOHLINGER** said this bill was an attempt to bring clarity to voter registration and recognized that **REP. SMITH** should have talked to the Native Americans first.

SEN. EKEGREN told the committee he supported this bill, however, he felt the people should take some responsibility to properly register even if they sleep on a park bench.

SEN. BUTCHER said this bill would make good government with the voter registration requirements.

SEN. FRANKLIN stated that although she agreed with **SEN. BUTCHER**, she opposed this bill because she felt the bill did not address the problem adequately.

SEN. TOOLE said he felt this bill would run into Voter Rights Act trouble and have an adverse impact on the Native American community. **SEN. TOOLE** told the committee he felt this bill was not needed.

SEN. BUTCHER added that with rural addressing, everyone had an address.

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SEN. HARGROVE said the intent of this bill was to get more voters registered. If they did not know where any of the people lived, there would be real problems in the voting process.

SEN. HARGROVE asked **David Niss** if the bill recognized that the Native Americans were a tribal government and that was routinely put in a bill. **David Niss** said that was routinely put in bills that were suspected to possibly have an impact on reservations, but that was only recently developed as a courtesy to another government. He added that it was done because they are a separate government, but was done only as a courtesy.

SEN. TOOLE asked if some research could be done on the Voting Rights Act before the committee voted on this bill. **David Niss** responded that he could do that.

The committee agreed to continue executive action on HB 80 the following day.

ADJOURNMENT

Adjournment: 12:00 A.M.

SEN. DON HARGROVE, Chairman

LYNETTE BROWN, Secretary

DH/LB

EXHIBIT (sts37aad)